HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 949 (MS) of 2004

Kurban
S/o Late Nazeer
R/o Imlikhera Dharampur
Pargana and Tehsil Roorkee
District Haridwar. .....Petitioner

Vs

Deputy Director of Consolidation
District Haridwar and others. .....Respondents.

Counsel for the petitioner Sh. K.S. Bora
Counsel for the respondents Sh. Sharad Sharma

Dated:- 1-10-2004

Hon'ble Rajesh Tandon J.

Heard Sh. K.S. Bora learned counsel for the petitioner and Sh. Sharad Sharma learned counsel for the respondents.

By the present writ petition the petitioner has prayed for the issue an order or direction setting aside the impugned order dt. 7-5-2002 and 31-8-2004 passed by the respondent No. 2 and 1.

Briefly stated appeal filed by the petitioner against the order passed by the consolidation officer has been remanded and the objections filed by the petitioner has been directed to be heard on merits.

Counsel for the petitioner has referred the judgment of AIR 1976 SC 866 and AIR 1974 SC 2241 that there should not be frequent remand and the appellate authority was required to decided the matter finally.

Since the matter is already pending before the consolidation officer. In the meantime the parties are directed to maintain status quo accordingly.

Since the order passed by the appellate court has already been confirmed by the revisional court, it is therefore desirable in the interest of justice that in pursuance of the order passed by the appellate court, let the matter he heard on merits.

In view of the aforesaid no interference under Article 226/227 of the Constitution of India is required as the order impugned being remand order.

However the consolidation officer is directed to decide the objections within a period of 3 months from the filling of the certified copy of the order.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

Dated:- 1-10-2004 *(RAJESH TANDON J.)*

M.K